

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DOUGLAS A. BARNES, 606739,

Petitioner,

CASE NO. 16-13944

v.

HON. Judith E. Levy

SHIRLEE HARRY,

MAG. Anthony P. Patti

Respondent.

APPENDICES TO ANSWER IN OPPOSITION TO PETITION
FOR WRIT OF HABEAS CORPUS

APPENDIX A

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

PEOPLE OF THE STATE OF MICHIGAN
Plaintiff,

Honorable: Edward Ewell

Wayne County Circuit Court
No: 06-2273

vs.

DOUGLAS BARNES
Defendant.

WAYNE COUNTY PROSECUTOR
Attorney for Plaintiff-Appellee

DANIEL J. RUST (P32856)
Attorney for Defendant-Appellant

MOTION TO VACATE ORDER OF APPOINTMENT OF APPELLATE COUNSEL

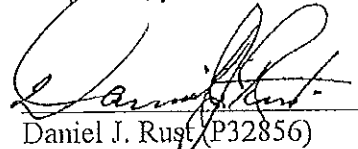
NOW COMES Defendant-Appellant DOUGLAS BARNES, by his appellate counsel, Daniel J. Rust, and moves this Honorable Court for an order vacating the Order of Appointment of Appellate Counsel entered in this case, and states as follows:

1. That on June 14, 2006, following a plea of guilty before Judge Brian Sullivan to one count of first degree criminal sexual conduct, MCL 750.520(b)(1)(a), defendant was sentenced to a term of incarceration of 7-20 years. In return, three other counts of first degree criminal sexual conduct were dismissed. Said sentence was within the sentence guidelines and pursuant to an agreement made with the prosecutor.

2. That on or about August 3, counsel was appointed as appellate counsel to represent Defendant Barnes in possible post-conviction proceedings.
3. That counsel traveled to the Saginaw Correctional Facility in Freeland, Michigan on May 10, 2007, to meet with Defendant Barnes to discuss his case.
4. After discussion, counsel informed Defendant Barnes he found no valid legal basis upon which to challenge either his plea or sentence, either in the trial court or on Application.
5. Subsequently, Defendant Barnes wrote counsel, requesting another 'professional look over my transcripts'. Counsel therefore believes Defendant Barnes is requesting new counsel be appointed.

WHEREFORE, Defendant-Appellant Douglas Barnes requests this Honorable Court grant this Motion and vacate the Order of Appointment of Appellate Counsel entered in this case.

Respectfully submitted,



Daniel J. Rust (P32856)
26062 Ivanhoe
Redford, Michigan 48239
(313) 837-7734

DATED: May 23, 2007

APPENDIX B

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

Case No. 06-2273 01

v.

DOUGLAS A. BARNES,

Defendant.

Carin Goldfarb (P33138)
Attorney for Plaintiff
1441 St. Antoine, 12th Floor
Detroit, MI 48226
(517) 313) 224-5777

Ronald D. Ambrose (P45504)
Attorney for Defendant
17018 Farmington Road
Livonia, MI 48154-2974
(734) 266-8250

MOTION TO WITHDRAW AS APPELLATE COUNSEL

Ronald D. Ambrose, attorney for Defendant Douglas A. Barnes, moves this Honorable Court to withdraw as appellate counsel, stating as follows:

1. On May 12, 2006, Defendant pled no contest to one count of criminal sexual conduct. In exchange for the plea, all other charges were dismissed. A sentencing agreement was reached, where Defendant would be sentenced to seven years to twenty years.

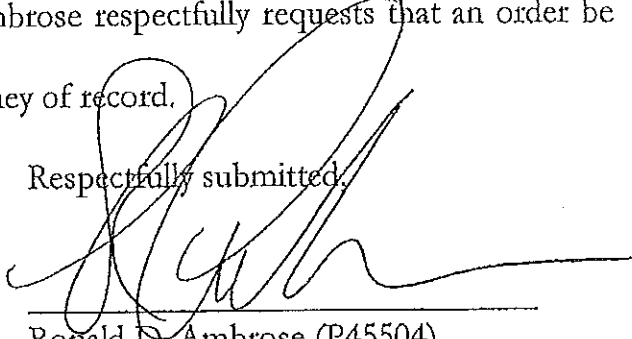
2. The Court sentenced Defendant in accordance with the plea/sentencing agreement on June 14, 2006.
3. Counsel was appointed as substitute appellate attorney for Defendant on May 31, 2007.
4. Counsel visited with Defendant at the Muskegon Correctional Facility in Muskegon, Michigan on October 1, 2007.
5. Counsel has received and reviewed court documents and transcripts regarding this case.
6. After a review of the above documents, counsel is of the opinion that there are no arguable issues on appeal.
7. This Court should grant this motion to withdraw as appellate counsel.

RELIEF REQUESTED

Attorney Ronald D. Ambrose respectfully requests that an order be entered removing him as attorney of record.

Respectfully submitted,

Dated: December 19, 2007



Ronald D. Ambrose (P45504)
Attorney for Defendant
17018 Farmington Road
Livonia, MI 48154-2974
(734) 266-8250

APPENDIX C

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

Wayne Circuit
Case No. 06-002273

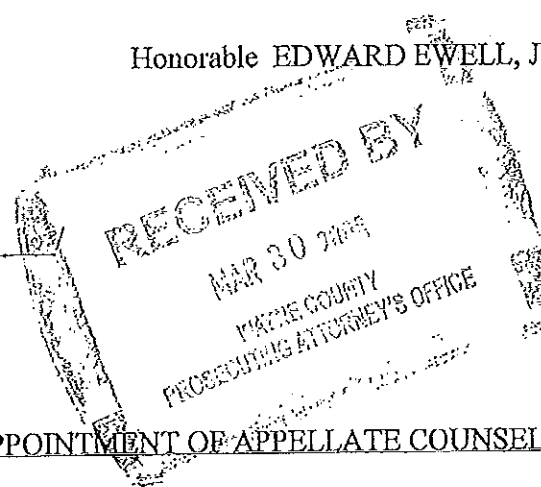
--VS--

Honorable EDWARD EWELL, JR.

DOUGLAS A. BARNES,

Defendant-Appellant.

WAYNE COUNTY PROSECUTOR
Attorney for Plaintiff-Appellee
FREDERICK M. FINN (P3268)
Attorney for Defendant-Appellant



MOTION TO VACATE ORDER OF APPOINTMENT OF APPELLATE COUNSEL

NOW COMES FREDERICK M. FINN, Attorney for Defendant-Appellant DOUGLAS BARNES, and moves this Honorable Court to grant this Motion to Vacate Order of Appointment of Appellate Counsel, and is so moving, states as follows:

1. On May 12, 2006, Defendant Barnes was convicted of Criminal Sexual Conduct, 1st Degree by nolo contendere plea before Judge Brian R. Sullivan. Defendant's plea included dismissal of 3 counts of Criminal Sexual Conduct, 1st Degree, and contained a sentence agreement of 7 to 20 years.
2. On June 14, 2006, Defendant Barnes was sentenced by Judge Sullivan consistent with his plea agreement to a prison term of 7 to 20 years on the Criminal Sexual Conduct, 1st Degree conviction.
3. After his sentencing by Judge Sullivan, Defendant Barnes filed Affidavits of Indigency and Petitions for Court-Appointed Appellate Counsel. In March 2009, defense counsel received an Order of Appointment Appellate Counsel (Substitution of Counsel)
4. Since being appointed to represent Defendant Barnes in this case, defense counsel has reviewed the complete court file and the plea/sentence transcripts for this case.

5. On Tuesday, March 24, 2009, defense counsel traveled to Muskegon Correctional Facility in Muskegon, Michigan, and met with Defendant Barnes to discuss this case.

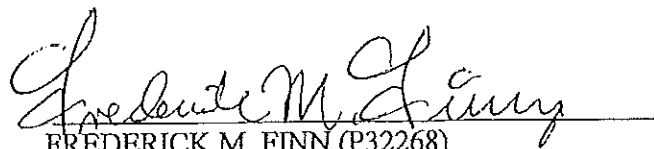
6. At the March 24, 2009 prison meeting, defense counsel discussed all potential issues with Defendant Barnes; finding no legitimate grounds for a plea withdrawal or an appeal of the sentence imposed. At that meeting, Defendant refused to sign a withdrawal form, and refused to advise defense counsel as to how he wished to proceed in this case. Defendant further stated that he intended to pursue this case with another attorney.

7. The March 24, 2009 prison meeting concluded with defense counsel advising Defendant Barnes that a motion to vacate order of appointment of appellate counsel would be filed in the Wayne Circuit Court.

8. Defendant Barnes is aware that defense counsel has filed the foregoing Motion to Vacate Order of Appointment of Appellate Counsel (See attached Notice of Hearing and Proof of Service)

WHEREFORE, FREDERICK M. FINN, Attorney for Defendant-Appellant DOUGLAS A. BARNES, moves this Honorable Court to grant this Motion to Vacate Order of Appointment of Appellate Counsel entered in this case.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Frederick M. Finn", is written over a horizontal line.

FREDERICK M. FINN (P32268)
Attorney for Defendant-Appellant
615 Griswold, Suite 1616
Detroit, Michigan 48226
(313) 964-1383

DATED: March 30, 2009

APPENDIX D

STATE OF MICHIGAN Third Judicial Circuit Court Wayne County	PRAECIPE FOR MOTION	CASE NO. 06-2273
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THE PEOPLE OF THE STATE OF MICHIGAN

-VS-

DOUGLAS BARNES

Defendant

TO THE ASSIGNMENT CLERK:

Please place a Motion for (here state nature of motion in brief) MOTION TO WITHDRAW AS
APPELLATE COUNSEL AND REQUEST TO APPOINT NEW APPELLATE COUNSEL

on the Motion Docket for N/A before Judge Edward Ewell

Date: February 3, 2009

PHILLIP D. COMORSKI

P 46413

Attorney for Defendant

Michigan State Bar #

2632 BUHL BUILDING, DETROIT, MI. 48226

Address

(313) 963-5101

Telephone

NOTE: UNDER MCR 2107(c)(1) or (2)

PROOF OF SERVICE

(7 Days notice required)

I swear that on N/A I served a copy of the attached motion and praecipe upon the
Wayne County Prosecutor, Third Judicial Circuit Court, Criminal Division Section by personal service.

Sworn and subscribed before me

on: _____

Phillip D. Comorski
Attorney for Defendant

Notary Public

County

7 day Notice Waived

Date

My Commission Expires

Prosecuting Official

Michigan State Bar #

PRAECIPE FOR MOTION

Form #1

STATE OF MICHIGAN
IN THE 3RD JUDICIAL CIRCUIT COURT FOR THE COUNTY OF WAYNE
CRIMINAL DIVISION

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

Lower Court No. 06-2273
Hon. Edward J. Ewell, Presiding Judge

DOUGLAS BARNES,

Defendant-Appellant.

MOTION TO WITHDRAW AS APPELLATE COUNSEL

NOW COMES Defendant herein, DOUGLAS BARNES, by and through his appointed appellate counsel, Phillip D. Comorski, and prays this Honorable Court to grant the foregoing motion and in support thereof he states as follows:

1. On May 12, 2006, Defendant Douglas Barnes pled no contest to first degree criminal sexual conduct, with a sentence agreement of 7 to 20 years. On June 14, 2006, the Court sentenced Mr. Barnes to 7 to 20 imprisonment.
2. Present counsel was appointed to represent Mr. Barnes on January 16, 2008, after previous two appellate counsels vacated their appointments of counsel on May 23, 2007 and on January 8, 2008.
3. Present counsel conducted a consultation with Mr. Barnes on August 2, 2008, and Mr. Barnes stated that he wished to withdraw his plea because he received ineffective representation by his attorney.

4. Mr. Barnes informed present counsel during the attorney/client consultation that he was coerced into entering a guilty plea because his attorney informed him off the record that he would receive a substantial sentence if he did not plead guilty.

5. Afterward, present counsel prepared an affidavit which detailed Mr. Barnes' claims about the misrepresentations by his attorney during his plea proceedings, and forwarded same to Mr. Barnes at the facility, requesting that he execute same and return it so a proper motion to withdraw his plea could be filed.

6. On November 1, 2008, Mr. Barnes sent a letter stated that he had not yet executed the affidavit because he was preparing other "issues" for his case, and that he needed time to prepare the "issues."

7. Present counsel is unable to ascertain the what these "issues" are at this time, and he has not heard further from Mr. Barnes since receiving the above letter in this case.

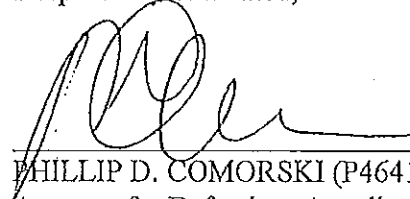
8. On the foregoing basis, present counsel is now seeking to have this Court permit him to withdraw as counsel since present counsel cannot determine whether Defendant wishes to pursue his appeal in this case, and because there appears to be a break-down in the attorney/client relationship.

9. Counsel further requests this Honorable Court to enter an Order appointing new appellate counsel for the Defendant for the same reason.

RELIEF REQUESTED

WHEREFORE, counsel respectfully requests this Honorable Court to permit him to withdraw as appellate counsel and enter an Order appointing new appellate counsel for the Defendant in this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Phillip D. Comorski', is written over a horizontal line.

PHILLIP D. COMORSKI (P46413)
Attorney for Defendant-Appellant
2632 Bulil Building
Detroit, Michigan 48226
(313) 963-5101

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2017, I electronically filed the foregoing papers with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

HONORABLE JUDITH E. LEVY
MAGISTRATE ANTHONY P. PATTI

and I hereby certify that Ann E. Webb has mailed by United States Postal Service the papers to the following non-ECF participant:

DOUGLAS A. BARNES, 606739
WEST SHORELINE CORRECTIONAL FACILITY
2500 S. SHERIDAN DRIVE
MUSKEGON HEIGHTS, MI 49444

Respectfully submitted,

Bill Schuette
Attorney General

s/Jared D. Schultz

Assistant Attorney General
Criminal Appellate Division
P.O. Box 30217
Lansing, MI 48909
(517) 373-4875
SchultzJ15@michigan.gov
P80198